

IN RE:
CARLOS AUGUSTO GASPARINI MATOS

CASE NO. 10-09730-ESL

CHAPTER 13

DEBTOR (S)

**TRUSTEE'S UNFAVORABLE REPORT
ON PROPOSED PLAN CONFIRMATION UNDER §1325**

TO THE HONORABLE COURT: NOW COMES, José R. Carrión, Chapter 13 Trustee, and very respectfully alleges and prays:

This is the Trustee's position regarding the request, under **11 U.S.C. §1325**, for the confirmation of a Chapter 13 Plan.

Debtor(s)' Income: **Above Median / 60 months commitment period.**

Gen Unsecured Pool: **\$0.00**

The **LIQUIDATION VALUE** of the estate has been determined in **\$0.00**

R2016 STM. \$3,000.00

TOTAL ATTORNEYS FEES THRU PLAN: \$2,500.00 Fees paid: \$0.00 Fees Outstanding: \$2,500.00
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With respect to the proposed (amended) Plan dated: **November 22, 2010** (Dkt 11).

Plan Base: **64,800.00**

The proposed (amended) plan can not be confirmed because it has the following deficiencies:

- Plan NOT proposed in GOOD FAITH [§1325(a)(3)]

Debtor's intention to keep and pay his 2008 BMW through the plan, when he owed \$10,767.00 in domestic support obligations and only offer to pay 2.33% to the general unsecured creditors lack of good faith.

- Feasibility [§1325(a)(6)]: Default in payments to Trustee.

Debtor is two month in arrears or \$2,000.00 with the Trustee. Debtor has failed to commence the payment to the Trustee. Thus, Debtor did not meet the evidentiary burden to demonstrate that his plan is feasible.

- Feasibility [§1325(a)(6)]: There is/are no allowed claim(s) for creditor(s) dealt in the plan [FRBP RULE 3021].

No proof of claim has been filed on behalf of secured creditor, Cooperativa de Ahorro y Credito AEE ("Cooperativa"). The plan sufficiency cannot be determined until the Cooperativa file its proof of claim.

- Feasibility: Default in Post Petition DSO payments. [§1325(a)(8)]

Debtor has failed to provide evidence of being up to date with DSO post-petition payments.

Due to the above described deficiencies in the proposed plan the Trustee Objects to the Confirmation of the same.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(s), and to her/his/their attorney through CM-ECF notification system.

In San Juan, Puerto Rico this December 27, 2010.

/s/ Jose R. Carrion

/s/ Mayra Arguelles -Staff Attorney

JOSE R. CARRION

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CHAPTER 13 TRUSTEE
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